# Saint Paul Planning Commission City Hall Conference Center 15 Kellogg Boulevard West

# Minutes August 5, 2011

A meeting of the Planning Commission of the City of Saint Paul was held Friday, August 5, 2011, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners

Mmes, Merrigan, Perrus, Porter, Reveal, Thao, Wencl, Young; and

Present:

Messrs. Commers, Connolly, Fernandez, Gelgelu, Kramer, Nelson, Ochs, Oliver,

Spaulding, Ward, and Wickiser.

Commissioners

Mmes. \*Halverson, \*Wang, and Mr. \*Schertler.

Absent:

\*Excused

**Also Present:** 

Donna Drummond, Planning Director; Lucy Thompson, Patricia James, Kate

Reilly, Sarah Zorn, Jessica Rosenfeld, Josh Williams, Joe Musolf, and Sonja

Butler, Department of Planning and Economic Development staff.

I. Approval of minutes July 8th and July 22, 2011.

MOTION: Commissioner Reveal moved approval of the minutes of July 8, 2011.

Commissioner Thao seconded the motion. The motion carried unanimously on a voice vote.

<u>MOTION</u>: Commissioner Thao moved approval of the minutes of July 22, 2011. Commissioner Wencl seconded the motion. The motion carried unanimously on a voice vote.

#### II. Chair's Announcements

Chair Commers announced that an appeal has been filed regarding the site plan for the Port Authority's Pelham development, and it will be before the Zoning Committee on August 25<sup>th</sup>. Also, the West Midway Industrial Area Task Force is working to develop a consensus and agenda for how the various land uses, including industrial, interact -particularly around station areas in the Central Corridor.

Chair Commers also reported on a meeting he had on Thursday with a number of consultants who are working with Public Arts Saint Paul, the City, Ramsey County, and a few other partners about developing a Central Corridor Public Arts Plan, focusing in between the station areas and in other areas around the corridor. He stated that he was impressed with the scope of their inquiry. Some of the partners may be contacting commissioners individually, and, if not, there will be contact between that Task Force and the Planning Commission.

#### III. Planning Director's Announcements

Donna Drummond reported that the Victoria Park Master Plan modification and rezoning of the Koch Mobil property from I3 to TN3 was approved by City Council on Wednesday. A Student Housing Zoning Study and a moratorium was also requested by the City Council for the area around the University of St. Thomas to determine if there are new zoning or licensing regulations that might be needed to control the extent of student rentals in that neighborhood. Finally, the St. Anthony Park Como 2030 Plan was adopted. The zoning changes recommended by that plan were also approved after a public hearing and will be on the City Council agenda for final adoption next week.

# IV. Zoning Committee

SITE PLAN REVIEW – List of current applications. (Tom Beach, 651/266-9086)

Two items came before the staff Site Plan Review Committee on August 1, 2011. Cossetta addition located at 211 West 7<sup>th</sup> Street, enlarge existing restaurant and store; Cossettas parking lot located at 212 Smith Avenue, pave parking lot (pave area that is currently gravel and mill/overlay area that is currently asphalt).

#### **OLD BUSINESS**

#11-148-456 City House – Re-establishment of nonconforming use as a reception hall in the FW Floodway District. 258 Mill Street south side of intersection of Walnut and Mill Street. (Josh Williams, 651/266-6659)

Commissioner Kramer said that the nonconforming use permit is needed because the location of the building is within the floodway district and is therefore nonconforming.

<u>MOTION</u>: Commissioner Kramer moved the Zoning Committee's recommendation to approve the re- establishment of nonconforming use. The motion carried unanimously on a voice vote.

#11-148-409 City House – Conditional Use Permit for a reception hall. 258 Mill Street south side of intersection of Walnut and Mill Street. (Josh Williams, 651/266-6659)

Commissioner Kramer said that the Conditional Use Permit enables the operation of the reception hall in the building. The resolution includes all of the conditions of approval, and provides for the Planning Commission to review the conditions of the permit one-year after the use is actually established. The Zoning Committee also clarified the resolution, making sure that, in addition to the reception hall, the trailhead can also function with whatever retail uses might be appropriate.

Commissioner Reveal asked if Commissioner Kramer would comment on the letter that was distributed at their places today.

Commissioner Kramer explained that the letter distributed was reflective of testimony that the writer gave at the Zoning Committee. Also this case was laid over for a number of weeks to allow for additional discussion between the community and city staff. The Zoning Committee and zoning staff did not facilitate those discussions; they were done by Parks and Recreation staff.

Commissioner Nelson added that one of the concerns in the letter had to do with process and decision-making by the community group. While there was not an official condo association representative present for the discussion, there was opportunity for a variety of people to participate.

Commissioner Kramer provided some history on this location. An earlier Planning Commission approval for this site anticipated that there would be a restaurant, which would operate most days of the week. What the Commission is now being asked to authorize would be two day time events and two evening events in the months of May, June, July, August and September. That is a change from the initial intended use.

Upon a question by Commissioner Ochs about who would operate the facility, Commissioner Kramer said that Parks and Recreation would control the property; but that the reception hall itself will be operated under a contract awarded through a competetive process.

Commissioner Ochs noted that the hours of operation through the season as well as the daytime hours and the number of events being held is limiting.

Commissioner Kramer said this is what Parks and Recreation proposed to the Zoning Committee after discussions with the neighbors. The Zoning Committee expanded it to also allow additional events during the day, and this is why condition #8, which calls for review of the conditions in one-year, was added. Additionally the function of the reception hall is limited, but the function of the trailhead facility, the primary purpose of the building, continues all year.

Commissioner Spaulding stated he concurs with Commissioner Ochs, but noted that Parks requested this, and they are going for what is feasible. Maybe neighbors will see that this works better than they anticipate, or it could go the other way.

<u>MOTION</u>: Commissioner Kramer moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions. The motion carried unanimously on a voice vote.

#### **NEW BUSINESS**

Commissioner Young abstained and left the room for the next two cases.

#11-250-540 HRA (599 Reaney) – Re-establishment of nonconforming use as a duplex. 599 Reaney Avenue between Payne and Edgerton. (Sarah Zorn, 651/266-6570)

<u>MOTION</u>: Commissioner Kramer moved the Zoning Committee's recommendation to approve the re- establishment of nonconforming use subject to additional conditions. The motion carried unanimously on a voice vote.

#11-250-154 HRA (765 Edgerton) – Re-establishment of nonconforming use as a triplex. 765 Edgerton Street between Bush and Reaney. (Sarah Zorn) 651/266-6570)

Commissioner Kramer said that the substantial issue is that part of this building was built on someone else's property. There are conditions in the proposed resolution from the Zoning

Committee that prohibit the issuance of building permits for the portion of the structure that encroaches on the other lot. The developer is concerned about those restrictions given the time lines for rehab, and a letter regarding this was distributed today. Commissioner Kramer asked if there was a quick solution to this or if the Zoning Committee should consider this at their meeting next week.

Sarah Zorn, PED staff, commented that she did not have a quick fix, and issuing a building permit would be something for the Department of Safety and Inspections to decide. But it would be important to have some kind of an agreement from the adjoining property owner that this demolition/construction could take place until the legal issue of the property line is settled.

Commissioner Nelson said one of the concerns of the redeveloper is continued deterioration of the building and being able to shore it up so that it does not get worse. Condition number 2 is that they could not get a certificate of occupancy prior to any resolution of this issue. He suggested sending the case back to the Zoning Committee and have it back to the Commission in two weeks. Changing the lot is not within the Planning Commission's purview, but perhaps there is a way to make sure that the property is secure and that some work can proceed.

Commissioner Ward wondered, if this property issue becomes a major legal battle between the two property owners, how the commission could allow the property owner to move forward on any type of work.. It seems that this should have been worked out prior to applying for the nonconforming use permit. How can any conditions be placed on a nonconforming use permit without the applicant having legal ownership of the site?. He stated the Commission needs to lay it over.

Commissioner Reveal suggested two possibilities: one is to get the adjoining property owner to agree in principal to the rehab assuming the easement is done, and the second is that any resolution should make it clear that the developer bears 100% of the cost of any investment he makes in a building that might have to be torn down.

<u>MOTION</u>: Commissioner Kramer moved to lay this case over to the next Planning Commission meeting with instruction that it be returned to the Zoning Committee for further discussion on the resolution. Commissioner Reveal seconded the motion. The motion carried unanimously on a voice vote.

#11-250-250 Dram Investments LLP – Re-establishment of nonconforming use as a car wash. 1340 7<sup>th</sup> Street West between Mercer and Victoria. (Ryan Kelley, 651/266-6562)

Commissioner Kramer announced that this case has been laid over to the August 11, 2011 Zoning Committee meeting.

#11-249-230 Ray Devine – Conditional use permit for outdoor sales, limited to the same dates as the Minnesota State Fair. 1565 Como Avenue NE corner of Como at Snelling. (Kate Reilly, 651/266-6618)

<u>MOTION</u>: Commissioner Kramer moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions.

Commissioner Connolly asked if the permit runs in perpetuity or if it is just for this year.

Commissioner Kramer said it is a conditional use permit and it runs with the land.

Commissioner Nelson questioned if the Commission should approve the permit in perpetuity. Should there be a condition it be revisited again in a year or 18 months?

Commissioner Perrus said that a temporary conditional use permit can not be created. Legally, this would need to be done under an interim use permit.

Commissioner Oliver moved to amend the resolution, with the condition that the Planning Commission will review the conditions of the permit 18 months after the establishment of the outdoor sales use. Commissioner Ward seconded the motion.

Commissioner Perrus said that the Commission can revisit the conditions of approval in 18 months but they can not revoke a conditional use permit unless there has been a violation of the existing conditions. Commissioner Oliver agreed.

Patricia James, PED staff explained that outdoor sales is a permitted use in the B3 district. This property is located at the corner of Snelling and Como, another business is across the street, and there is some residential across the alley. Approving this permit doesn't extend the boundary of the State Fair vending area, which ends one block south of Midway Parkway and is intended for residential home owners to be able to rent out their yards. Since he is only proposing to do this during the State Fair, he is limiting himself on what would otherwise be permitted under B3 zoning.

Commissioner Reveal surmised that if the concession area is not used a year from now, then someone else would have to come back for another conditional use permit. Commissioner Kramer agreed that was the case.

The motion to amend the resolution failed on a voice vote.

The main motion carried unanimously on a voice vote.

Commissioner Kramer announced the items on the agenda for the next Zoning Committee meeting on Thursday, August 11, 2011.

### V. Comprehensive Planning Committee

Commissioner Merrigan reported that at their last meeting Don Ganje gave a slide presentation on the Great River Passage Plan. The committee asked a series of questions about where development was and how it would come together with other aspects of the work that the City is doing. They admired the vision of the plan and enjoyed the presentation.

Commissioner Merrigan announced that the next meeting will be on Tuesday, August 16, 2011.

## VI. Neighborhood Planning Committee

<u>Smith Avenue Revitalization</u> Plan – Approve resolution recommending adoption by the Mayor and City Council. (*Kate Reilly, 651/266-6618*)

<u>MOTION</u>: Commissioner Wencl moved the Neighborhood Planning Committee's recommendation to approve the resolution that the Smith Avenue Revitalization Plan be adopted by the Mayor and City Council. The motion carried unanimously on a voice vote.

<u>District 9 Residential Zoning Study</u> – Approve resolution recommending adoption by the Mayor and City Council. (*Jessica Rosenfeld*, 651/266-6560)

<u>MOTION</u>: Commissioner Wencl moved the Neighborhood Planning Committee's recommendation to approve the resolution that the District 9 Residential Zoning Study be adopted by the Mayor and City Council.

Commissioner Oliver spoke against the rezoning, based on the need for more affordable rental housing. He also believes the zoning change is contrary to the vision of the Comprehensive Plan. Affordable housing comes from taking larger things that are not selling on the market and creating rental property. This is one of the few non-north end non-near east side neighborhoods that is zoned for this type of conversion. It is inconsistent to wring our hands about affordable housing yet indulge every request that affordable housing not be on someone's block. Looking at the citywide zoning maps, there is a lot of yellow for single family residential zoning all across the city and brown for multi family only up the middle. This is a step in the wrong direction. In the Comprehensive Plan it talks about 1,2,3 and 4 family structures in Established Neighborhoods. The study finds that there really has not been much of an impact in this area, and the planning goal, along with affordable housing, is to have a mix of housing.

Commissioner Perrus said that the Neighborhood Planning Committee had a long discussion about this and the need to assess where duplexes and triplexes are appropriate and how they impact the neighborhood. However, a person can rent in any of these areas — but it would be a single family rental instead of an apartment or a triplex rental.

Commissioner Wickiser said the issue is that the current zoning was established when all but one of the council members in the City of Saint Paul lived west of Lexington. The lot sizes in this area are not large enough for duplexes, and chopping up small houses into duplexes basically chews up the housing stock. The gentrification issue that was talked about in the Central Corridor is not an issue that this neighborhood is concerned about at all. This is going to preserve some of the most historic housing stock in the city from further deterioration.

Commissioner Ward stated that anytime you try to limit house conversions because of size of the lot or structure, it is a good thing rather then a bad thing, because it is limiting one particular type of use, and that is overcrowding in properties that were not originally designed to be multiple unit dwellings anyway.

Commissioner Thao agreed that multiple unit buildings or duplexes are not needed in order for people to rent housing.

Commissioner Nelson noted that, more than half of the parcels in that area do not comply with the minimum property standards for duplexes. The zoning being proposed is much more conforming with the reality on the ground.

Commissioner Reveal said the largest housing need that has been identified is either for teenagers or for families. There are not enough multi-bedroom properties in the city now, and this seems to be one of the areas left that has the possibility of rents that come near affordability. The fact that the lot size requirements would make 50% of the area nonconforming if they allowed duplexes and triplexes and the fact that multi-bedroom housing for families is a critical need makes her comfortable with the rezoning.

Commissioner Young noted that quality affordable housing includes having a place where kids can go outside and play in their yard, or where people are not using their microwave as a stove. Because of those factors, this is a good move to make.

Commissioner Oliver said what concerns him is that this area is already zoned to permit duplexes. This is not doing something to allow duplexes, it is changing the zoning so that it cannot happen. It is not about egregious owners or illegal conversions; it is about the option. There would not be a wholesale conversion of the neighborhood to duplexes and triplexes because there are other restrictions in the zoning code, such as minimum lot size, that prevents that conversion. Changing the zoning does not guarantee quality housing. What the zoning tries to assure is the size and dimensions of housing in a neighborhood, having a variety of housing within a neighborhood, and trying to disperse affordable housing. He is not convinced that conversions are so detrimental to a neighborhood that they shouldn't be allowed. There is no reason to cut the option here, especially as it replaces a relatively uniform zoning pattern with a piecemeal map.

Upon a question by Commissioner Reveal regarding whether an owner or developer could come in for a nonconforming use for a duplex or triplex if the area is rezoned, Commissioner Kramer clarified that a property owner cannot create a nonconforming use after the zoning is changed. Similar to the two previous cases, existing duplexes that have gone vacant could be reestablished. Other things could be done too, like rezoning the property or a cluster townhouse development.

Commissioner Spaulding moved to call the question. There being no objection, the Commission proceeded to the vote on the main motion.

The main motion carried 17-1 (Oliver) on a voice vote.

<u>District 9 Commercial Zoning Study</u> – Approve resolution recommending adoption by the Mayor and City Council. (*Lucy Thompson*, 651/266/6578)

<u>MOTION</u>: Commissioner Wencl moved the Neighborhood Planning Committee's recommendation to approve the resolution that the District 9 Commercial Zoning Study be adopted by the Mayor and City Council. The motion carried 17-1 (Fernandez) on a voice vote.

Commissioner Wencl announced the items on the agenda for the next Neighborhood Committee meeting on Wednesday, August 10, 2011.

### VII. Transportation Committee

Commissioner Spaulding reported that at their last meeting they discussed two transportation

projects, the Gateway Corridor where Washington County, in conjunction with others, is looking at options to route a transit line (light rail/commuter rail/bus) to the east toward Hudson. The committee looked at options for going through the east side.

The other project was an introduction to the city's upcoming work on the Northwest Quadrant transportation study. The location is basically north of I-94 and west of Snelling, where there are some gaps. The committee discussed the city's RFP for a consultant to work on that.

Commissioner Spaulding announced the item on the agenda for the next Transportation Committee meeting on Monday, August 8, 2011.

## VIII. Communications Committee

Commissioner Thao had no announcements.

# IX. Task Force Reports

None.

### X. Old Business

None.

#### XI. New Business

None.

#### XII. Adjournment

Meeting adjourned at 9:40 a.m.

Recorded and prepared by Sonja Butler, Planning Commission Secretary Planning and Economic Development Department, City of Saint Paul

Respectfully submitted,

Donna Drummond Planning Director

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Approved

Anthony Fernandez

Secretary of the Planning Commission